

IN RE ATTORNEY FEES REQUEST
OF STEVEN R. MARKS

: Order Adopting Recommendation of
: Administrative Law Judge and
: Awarding Attorney Fees
:
: Docket No. IBIA 84-13-F
:
: April 19, 1984

On January 13, 1984, the Board of Indian Appeals (Board) received a petition for attorney fees from Steven R. Marks (petitioner), McCarvel & Marks, Glasgow, Montana, for representation of Patricia First McBride in regard to the Estate of Wilma Florence First Youngman, IP-BI-400B-83, IP-BI-698B-82, and IBIA 83-47. Petitioner represented his client both before Administrative Law Judge Daniel S. Boos and before the Board. Petitioner sought attorney fees under a written contract which allowed for a fee of 20 percent of the first one-half of the amount in the estate Individual Indian Money account, 1/ and 25 percent of the second one-half of that amount. The entire fee was to be paid from the second half of the estate account, and was contingent upon successful representation of petitioner's client before the Board.

On January 25, 1984, the Board referred the petition to Judge Boos for his consideration. The Judge postponed consideration of the petition until the Board rendered a decision in the underlying probate case.

The Board issued a decision in the Estate of Wilma Florence First Youngman on April 4, 1984. 12 IBIA 219. The decision upheld the Judge's determination that the entire estate should devolve to petitioner's client. Accordingly, on April 12, 1984, Judge Boos recommended that the Board award petitioner the full amount of the contract fee, as follows:

In checking with the Fort Peck Agency I am informed that on April 5, 1984, the amount of \$86,534.23 was transferred from the estate account to the account of Patricia McBride. This was done pursuant to your order allowing partial distribution dated February 23, 1984.

1/ By order dated Feb. 23, 1984, the Board allowed the distribution of one-half of the estate account to petitioner's client. Her entitlement to this percentage of the estate was not questioned.

Thus, on April 4, 1984, there remained a cash balance of \$86,534.23 in the estate account. Twenty percent of \$86,534.23 is \$17,306.84. bTwenty-five percent of \$86,534.23 is \$21,633.55. The total of these percentages is \$38,940.39.

I recommend that McCarvel and Marks be allowed attorney fees in the amount of \$38,940.39. This amount is reasonable and fair in light of the circumstances of the case. Very valuable services were rendered.

The Board accepts this recommendation. Pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1 and 4.281, attorney fees in the amount of \$38,940.39 are awarded to petitioner.

Bernard V. Parrette
Chief Administrative Judge

Jerry Muskrat
Administrative Judge

Anne Poindexter Lewis
Administrative Judge